APPENDIX A

REGULATING IMMIGRATION LEGAL SERVICE PROVIDERS: INADEQUATE REPRESENTATION AND NOTARIO FRAUD

Careen Shannon*

on behalf of
The Subcommittee on Addressing Inadequate Representation

Immigrants are often easy prey for bogus or incompetent attorneys,"notarios," scam artists, and other bad actors who take advantage of immigrants' limited knowledge of U.S. law, lack of English fluency, and lack of cultural knowledge to charge exorbitant fees for wild promises of green cards and citizenship that the bad actors cannot—or in some cases never intended to—deliver. Such exploitation is merely a symptom, however, of the larger problem of inadequate access to competent legal counsel by foreign nationals seeking to navigate our labyrinthine scheme of immigration laws, regulations, and policies. Contrary to popular belief, not all of these foreign nationals are "illegal aliens" who slipped over our southern border; many are entitled to obtain lawful immigration status, if only they had adequate guidance from qualified counsel to help them seek it. Unfortunately, there is no constitutionally guaranteed right to counsel in immigration proceedings (even in cases where deportation is at stake), and competent private and nonprofit resources are limited. After illustrating the

nature of the problem with some real-life stories of immigrants who have been victimized by fraudulent service providers, and discussing the current state of the law with respect to what constitutes the inadequate practice of immigration law and who is legally permitted to represent immigrants in immigration matters, this report proposes changes to local, state, and federal law and policy that would help to combat fraudulent activities by unscrupulous nonlawyers and inadequately trained lawyers alike. These and other proposals are put forth in an attempt to help lay the groundwork for ensuring that immigrants in need of competent legal counsel can access the help to which they should be entitled....

....Given the judicial consensus that the Sixth Amendment does not apply [where a government actor, as in Bauer, supplies IAC current case law as description this Petition such as Omar, Id., concludes that the Sixth Amendment applies to the alien's right to counsel] because removal proceedings are civil rather than criminal matters (ignoring the fact that banishment and exile can, in many cases, constitute a much more severe punishment than imprisonment),208 efforts should be made to create a statutory right to counsel instead....

208 See Fong Yue Ting v. United States, 149 U.S. 698, 759 (1893) (Field, J., dissenting)("As to its cruelty, nothing can exceed a forcible deportation from a country of one's residence, and the breaking up of all the relations of friendship, family, and business . . . .").

CONCLUSION

As made clear by recent news events—such as the arrest of Victor Espinal in New York and the hundreds of immigrants who showed up at the New York City Bar's free legal clinic on just one occasion, desperate for help in regularizing their immigration status,211 and the civil judgment that attorneys from the Bryan Cave law firm won against a notario in Maryland212—the exploitation of immigrants by unsavory service providers, lawyers and nonlawyers alike, continues apace .... While a problem of this magnitude is not easily solved, there are a number of concrete changes that could be made to law and policy—as we have outlined above—that would make an enormous difference in the lives of the affected immigrants and their family members (the latter of whom may actually be lawful permanent residents or U.S. citizens in many cases). However, such changes would also redound to the benefit of our legal system as a whole, restoring a sense of integrity to an aspect of our law that does not currently reflect the ideals of justice on which this nation was founded.

APPENDIX B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HEARING LOCATION: KANSAS CITY, MO

In the Matter of Christa Bauer
Respondent: IN REMOVAL PROCEEDINGS

File: A97-597-220

ORDER OF THE IMMIGRATION JUDGE

This is a summary of oral decision entered on 11-28-05. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

[x] The respondent was ordered removed from the United States to Zimbabwe.

[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.

[ ] Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of _____ with an alternative order of removal to.

[x] Respondent's application for asylum was ( ) granted, lack of presentation. ( ) withdrawn.

[ ] Respondent's application for withholding of removal was ( ) granted (X) denied ( ) withdrawn.

[ ] Respondent's application for withholding/ defferal of removal under Article 3 of Torture

Convention was ( ) granted ( ) dented ( ) withdrawn.

[ ] Respondent's application for cancellation of removal under Section 240A(a) was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's application for cancellation of removal under Section 240A(b) was ( ) granted ( ) denied ( ) withdrawn. If granted it was ordered that the respondent be issued all appropriate documents necessary to give affect to this order.

[ ] Respondent's application for a waiver under Section _____ of the INA was ( ) gratned ( ) denied ( ) withdrawn ( ) other.

[ ] Respondent's application of adjustment of status under Section 212c of the INA was ( ) gratned ( ) denied ( ) withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Respondent's status was rescinded under Section 246.

[ ] Respondent is admitted to the United States as until ____.

[ ] As a condition of admission, respondent is to post a $_____ bond.

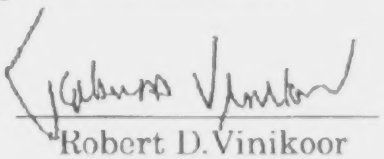
[ ] Respondent knowingly filed a frivolous asylum application after proper notice.

[ ] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the immigration judge's oral decision.

[ ] Proceedings were terminated, without prejudice.

[ ] Proceedings were administratively closed.
[x] Other:_____

Date: 11-29-05
Administrative Control Court: Immigration Court, 55 East Monroe, Suite 1900, Chicago, IL 60603. Hearing conducted by: Telephone Conference/ Video Conference
Appeal:
APPEAL DUE BY:



Robert D. Vinikoor
Immigration Judge

APPENDIX C

U.S. Department of Justice
Executive Office for Immigration Review
Immigration Court Chicago

In the Matter of: Case No.: A97 597 220

Christa Bauer

Docket: _____

Respondent/Applicant IN Removal Proceedings

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of respondent's/applicant's

_____ Motion to Reconsider an Immigration Judge's decision

__X__ Motion to Reopen proceedings

filed in the above entitled matter, it is HEREBY ORDERED that the motion _____ be granted.

__X__ be denied for the reasons indicated below:[1]

Robert D. Vinikooor
Immigration Judge
Date: November 6, 2006

[1]The respondent's motion to reopen is timely and fails to establish the requirements for re-opening under Section 240(b)(5)(C) of the INA. Therefore, the motion is denied. The record reflects that the respondent received both the Notice to Appear and her hearing notice for November 28, 2005. The respondent's affidavit indicates that she did not intentionally appear because she had married a United States citizen. Although the respondent claims that she may have been misinformed by a volunteer agency who helped her prepare an I130/I485 application, she has submitted nothing from this agency to show that she was misinformed or ever advised them that she was under removal proceedings. To the contrary, the agency apparently denies that they knew that she was under proceedings. The respondent's mistake falls far short of meeting the "exceptional circumstances" requirement of the statute. Moreover, the respondent did not file her motion to reopen within 180 days of the removal order in her case. Therefore, her motion is also untimely. See Section 240(b)(5)(C)(i).

Accordingly, for all of the foregoing reasons the respondent's motion to reopen will be denied.

APPENDIX D

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

ALLAN H. BELL, ESQUIRE	Office of the District Counsel/KAN
2022 Swift St., Ste. 202	9747 North Conant Ave.
N. Kansas City, MO 64116-3442	Kansas City, MO 64153

Name: BAUER, CHRISTA A097-597-220

Date of this notice: 7/31/2008

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Donna Carr
Cheif Clerk

Enclosure

Panel Members:
Snow, Thomas G.

U.S. Department of Justice
Appeals Executive Office for Immigration Review

Falls Church, Virginia 22041

Decision of the Board of Immigration

Files: A097 597 220 - Kansas City, MQ Date: Jul. 31, 2008

In re: CHRISTA BAUER.

IN REMOVAL PROCEEDINGS

APPEAL & MOTION·

ON BEHALF OF RESPONDENT: Allan H. Bell, Esquire

APPLICATION: Reopening

The record reflects that removal proceedings were instituted against the respondent under two different alien registration numbers. On September 28, 2004, the Department of Homeland Security (DHS) served the respondent by regular mail with a Notice to Appear under A097 126030. On November 2, 2004, the DHS served the respondent by regular mail with a Notice to Appear under A097 597 220. In this decision, we will consider the record of proceedings pertaining to A097 597 220. The appeal will be dismissed and the motion to consolidate will be denied.

On November 28, 2005, the Immigration Judge ordered the respondent removed in absentia for her failure to appear. On September 26, 2006, the respondent filed a motion to reopen acknowledging receipt of the Notice to Appear and the hearing notice rescheduling her hearing for November 28, 2005. The respondent asserted that her motion to reopen was timely because it was filed within 180 days from the date that she first learned that an in absentia order for removal was issued against her. However the respondent failed to file her motion to reopen within

180 days after issuance of the final order, as is required under section 240(b)(5)(C) of the Act. Furthermore, the respondent has not filed a joint motion to reopen. Pursuant to 8 C.F.R. §1003.23(b)(4)(iv), the time and numerical limitations shall not apply to a motion reopen agreed upon by all parties and jointly filed.

In her motion to reopen, the respondent contended that she believed the combination of her marriage and the fillings of a visa petition and adjustment of status application would cancel out any need to appear before the Immigration Judge, according to information she had received from various acquaintances at the time, nothing that she did not have an attorney to advise her on this issue. The respondent also claims that Ms. Omazic at the Jewish Vocational Services (JVS) prepared and filed the visa petition and adjustment of status application on November 17, 2005, and that she informed Ms. Omazic that she was scheduled to appear at a hearing on November 28, 2005. However, she indicates that Ms. Omazic does not recall the respondent mentioning her scheduled hearing, and she claims that there must be a misunderstanding with Ms. Omazic on this point. The DHS opposed the respondent's motion to reopen, arguing that it was not timely filed, and that she failed to demonstrate exceptional circumstances for her failure to appear. The Immigration Judge denied the motion to reopen, finding that it was filed untimely, and that she failed to establish the requirements for reopening under section 240(b)(5)(C) of the Act. The Immigration Judge noted that he respondent did not submit any1hing from the JVS to show that she was misinformed or ever advised them that she, was under removal proceedings.

On appeal and in her reply to the government's memorandum, the respondent raises several new issues. She now contends that she has established exceptional circumstances due to ineffective assistance of counsel, based on her claim that Ms. Omazic (a legal assistant at the JVS) informed her hat it was riot necessary to attend, her hearing on November 28, 2005, as it had been canceled out due to her pending visa petition and adjustment of status application. She also asserts that the filing deadline should be equitably tolled from at least April 2, 2006, when she first became aware of the removal order.

We have held that ineffective assistance of counsel can constitute an "exceptional circumstance" or purposes of rescission of an in absentia order where the alien establishes that the failure to appear was the result ineffective of counsel and where the criteria set forth in *Matter of Lozala*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988), are satisfied, *Matter of Assaad*, 23 I&N Dec. 553 (BIA 2003). *Matter of Lozada* requires (1) that the motion be supported by an affidavit of the allegedly aggrieved respondents setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel bid or did not make to the respondent; (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him or her and be given an opportunity to respond; and (3) that the motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Id. At 639.*

The United States Court of Appeals for the

Eighth Circuit within whose jurisdiction this case arises; upheld the Board's finding that an alien failed to establish exceptional circumstances wherein she alien inconsistently claimed that she misunderstood her attorney to say that she did not need to appear, and that he outright told her not to appear. See *Gitau v. Mukasey*, 520 F.3d 906 (8th Cir. 2008) (Board did not abuse its discretion in finding that alien failed to establish exceptional circumstances, due to her inconsistent claims regarding her former attorney and the basis for her failure to appear). Similarly, in this case the respondent has presented very different allegations in her motion to reopen and on appeal regarding the basis for her failure to appear. The respondent stated in the affidavit submitted with her motion to reopen that she believed the combination of her marriage and the filings of a visa petition and adjustment of status application would cancel out any need to appear before the Immigration Judge; according to information she had received from various acquaintances at the time. The respondent also claimed that she informed Ms. Omazic that she was scheduled to appear at a hearing on November 28, 2005, but that Ms. Omazic does not recall the respondent mentioning her scheduled hearing. However, on appeal the respondent now asserts that Ms. Omazic informed her that it was not necessary to attend her hearing on November 28, 2005, as it had been canceled out due to her pending visa petition and adjustment of status application. Moreover, the respondent has failed to comply with the requirements set forth in *Lozada*. The affidavit submitted with the motion to reopen does not set forth the representations that the respondent now claims the legal assistant

made to her.[1] The respondent has not submitted any evidence that Ms. Ozamic has been informed of the allegations leveled against her and that she has been given an opportunity to respond. The respondent also has not indicated that a complaint has l been filed with any disciplinary authorities regarding Ms. Ozamic or the Jewish Vocational Services. *See Habchy v. Gonzales*, 471 F.3rd 858 (8th Cir. 2006) (alien's failure to file a *Lozada*-compliant motion to reopen within the statutory deadline bars his claim for relief on the basis of "exceptional circumstances"). Consequently, the respondent has failed to establish a valid ineffective assistance of counsel claim and has failed to establish exceptional circumstances for her failure to appear. Therefore, we need not reach the issue of whether equitable tolling should be applied in this case.

The respondent also appears to contend that her hearing should have been routinely continued under *Matter of Velarde*, 23 I&N Dec. 253 (BIA 2002), since the DHS knew, or should have known, of the visa petition and application for adjustment of status that had been filed based on the respondent's marriage to a United States citizen. The respondent does not contend that she ever sought a continuance of her hearing scheduled for November 28, 2005. The regulations provide that an Immigration Judge has the discretion to grant a request for continuance where good cause is shown. *See* 8 C.F.R. §1003.29. However, even if an alien does file a motion to continue, the parties are obligated to appear for a scheduled hearing unless and until the Immigration Judge expressly grants a request for a continuance. *See Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996) (the filing of a motion for

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[1] The "Complete Affidavit of Christa Farwell Bauer" filed on April 9, 2007, also does not address the respondent's ineffective assistance of counsel claim

a continuance does not excuse an alien from failing to appear. The respondent never sought a continuance and was never granted such a request, nor was it the government's duty to seek a continuance on her behalf. The respondent acknowledged receipt of the Notice to Appear and the notice of hearing, both of which informed the respondent of the consequences of a failure appear. The Immigration Judge was within his bounds to conduct the proceedings in absentia.

The respondent avers that her marriage to her husband, who is an active duty and decorated member of the U.S. constitutes special circumstances entitling her to have her case reopened to consider her application for adjustment of status. The respondent has not cited any pertinent legal authority in support of her argument that the Board may reopen proceedings based on "special circumstances". However, even if we construe the respondent's contention as a request that the Board exercise its *sua sporue* authority to reopen her removal proceedings, we find that the facts presented in this case do not warrant an intervention of our *sua sponte* authority to reopen the proceedings. *See* 8 C.F.R. §1003.2(a); *see also Matter of G-D*, 22 I&N Dec. 1132 (BIA 1999); Mater of J_J, 21 I&N Dec. 976 (BIA 1997).

On April 9, 2007, the respondent filed a motion to consolidated the records in A097 126 030 and A097 597 220. As the proceeding under A097 126 030 are not currently on appeal before the Board, and the two proceeding concern separate issues of notice and exceptional circumstances, the motion to consolidated

will be denied[2]. Accordingly, the flowing orders will be entered.

ORDER: The appeal is dismissed.

FURTHER ORDER: The motion to consolidate is denied.

FOR THE BROAD

[2] In the removal proceedings under A097 126 030, the respondent filed a motion to reopen on March 23, 2007. The DHS filed a response to the motion to reopen, stating that it did not oppose reopening and termination of the removal proceeding for lack of proper service, pursuant to *Ghounem v. Ashcroft*, 378F.3d 740 (8th Cir. 2004). The DHS did not concede that the respondent has established her true identity or that the proceeding should be reopened under A097 597 220 based on exceptional circumstances. The record reflects that the Immigration Judge did not have an opportunity to consider the respondent's motion to reopen under A097 126 030. Consequently, the record must be returned to the Immigration Judge for consideration of the respondent's motion to reopen.

APPENDIX E

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with
Fed. R. App. P. 32.1

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

Argued November 17, 2009
Decided November 23, 2009

Before
FRANK H. EASTERBROOK, *Chief Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
DIANE S. SYKES, *Circuit Judge*

Nos. 08-3243 & 09-1280

CHRISTA FAREEDBAUER
Petitioner
v.
ERIC H. HOLDER, JR.,
Attorney General of
the United States,
Respondent

Petitions for Review of an Orders of the Boards of Immigration Appeals.

Order

Christa Bauer, a citizen of either Zambia or Zimbabwe, applied for asylum in the United States. (Her passport is from Zambia, and several affidavits presented in sup-

port the application for asylum acknowledge birth in that nation; but in the asylum application itself Bauer asserts that she was born in Harare, Zimbabwe, and is a citizen of that nation.) An immigration judge scheduled a hearing for November 28, 2005. Bauer did not appear. Eleven days before the hearing, she had filed a notice withdrawing the claim for asylum: she had decided instead to pursue a petition for adjustment of status on the basis of marriage. Because Bauer did not appeal:, she was ordered removed in absentia. The IJ also denied her request for asylum; apparently he had not received the notice withdrawing that request. But that decision did not matter, because the removal order rests on the facts that Bauer is neither a citizen of the United States nor the holder of a visa entitling her to be here. And once the order of removal was entered, the agency closed its me on Bauer's request for adjustment of status.

Bauer had 180 days to file a motion to reopen the proceedings, a step that could have allowed the agency to act on the petition for adjustment of status. 8 U.S.C. §1229a(b)(5)(C). She took more time than that Bauer contends that she did not learn about the removal order until April 3, 2006. Through legal counsel, she filed a motion to reopen on September 26, or 176 days after she concedes receiving actual notice. (Bauer has given at least four other dates as the receipt of notice; April 3 is the latest, so we use that without considering the consequences of this curious inconsistency.) The statutory 180-deadline runs from "the date of the order of removal", not from the date the order is received. As of April 3, 2006, Bauer had 54 days left to file a timely motion. She has never explained why she did not file within that period. Instead her lawyer has

espoused the view that the time runs from receipt of notice, rather than from the date of the removal order, and that there is therefore no delay in need of explanation. Counsel has never offered any authority for that position, however.

The IJ denied the motion to reopen, for two reasons: first, it was untimely; second Bauer has not established "exceptional circumstances" (the standard for relief on a timely motion). Bauer filed an affidavit concerning her decision to skip the hearing. In it she asserted that "I thought the combination of my marriage and the [adjustment-of-status] filing would cancel out any need to appear before the judge". Bauer did not suggest that the IJ or any of the agency's employees had advised her that she could simply ignore an order to appear for a hearing. The IJ understandably concluded that an alien's decision to ignore an IJ's order to appear is not the sort of circumstance that justifies starting over.

On appeal to the Board of Immigration Appeals, Bauer filed a second affidavit. This time she attributed her decision to advice from Marianna Omazic, an immigration counselor (a non-lawyer assistant accredited by the agency, see 8 C.F.R §12~22(d)). Bauer did not supply any written advice to that effect from Omazic, nor did the affidavit (or any other document filed with the BIA) present Omazic's version of any conversations she may have had with Bauer. Neither the affidavit nor any other document stated that Bauer had lodged a complaint with the agency, which has the authority to remove Omazic from the rolls of accredited counselors. See 8 C.F.R. §1292.3. The BIA dismissed Bauer's appeal, ruling that the second affidavit was

no better than the first at establishing exceptional circumstances. The Board thought that, by parallel to Matter of Lozada, 19 I&N Dec. 637 (1988.), Bauer had to confront Omazic with the allegation that unprofessional advice had been rendered, obtain (and include in the record) a response to that accusation, and file a formal charge of misconduct with the regulatory body. None of these steps had been taken. Bauer then filed a motion to reconsider, which the BIA denied. We have consolidated Bauer's petitions for review of the motions to reopen and reconsider.

We held in *Kucana v. Mukasey*, 533 F.3d (2008), cert. granted, 129 S. Ct. 2075 (2009), that 8 U.S.C. §1252(a)(B)(ii) precludes jurisdiction over petitions to review or statutory or constitutional argument. Bauer contends that she has a constitutional argument that bad advice from a non-lawyer counselor means that the IJ's order violates order entered in November 200.5 The orders at issue are those entered by the BIA in 2008 (denying reopening) and 2009 (denying reconsideration of the 2008 decision). Bauer does not present any constitutional objections to *those* orders.

Whether the petition to reopen was timely, whether that time should be equitably tolled (as Bauer argued before the BIA), and whether "exceptional circumstances" support reopening are non-constitutional issues. Bauer does not contend that the Board made an error of law; instead she contends that the IJ and the BIA abused their discretion by not accepting her untimely motion and not deeming the circumstances "eceptional." Those are the very sort of discretionary decisions on which §1252(a)(2)(B)(ii) makes the administrative decision final. See, e.g. *Huang v. Mu-*

kasey, 534 F. 3d 618, 622 23 (7th Cir. 2008). See also, e.g., *Stroe v. INS,* 256 F. 3d 498 (7th Cir. 2001) (because there is no right to appointed counsel at public expense in removal proceedings, bad legal, advice is not a constitutional problem but, as in other civil litigation, is imputed to the client); *Magala v. Gonzales,* 434 F.3d 523 (7th Cir. 2005).

Kucana holds that decisions not to reopen are covered by §1252(a)(2)(B)(ii) (subject the proviso for statutory and constitutional arguments), because it reads the reference "discretion" in §1252(a)(2)(B)(ii) to include not only discretion specified in the immigration and Naturalization Act, but also discretion exercised *under* that Act. Regulations under the Act make reopening discretionary. The other possible understanding of §1252(a)(2)(B)(ii); advanced by the alien in *Kucana,* limits that statute to discretion conferred by the statutory text. If the Supreme Court should agree with that argument, ?? we would have jurisdiction. But Bauer still could not prevail, for §1229a(b)(5)(C) provides that an order of removal may be rescinded

> only—
>
> (i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1) of this section), or
>
> (ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 1229(a) of this title or the alien demonstrates that the alien was in Federal or State

> custody and the failure to appear was through no fault of the alien.

Bauer cannot use subsection (i), because her motion was filed more than 180 days after the order of removal. And subsection (ii) does not apply by its terms: Bauer does not contend that she did not receive notice of the hearing, or that she was in custody at the time of the hearing.

And even if all of this is mistaken, substantial evidence supports the Board's decision that Bauer has not demonstrated "that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1) of this section)". Subsection (e)(1) reads: "The term 'exceptional circumstances' refers to exceptional circumstances (such as battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien, or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien." Nothing "beyond the control" of Bauer took place, nor is mistaken legal advice comparable to extreme cruelty or serious illness. *Cf. Murray v. Carrier*, 477 U.S. 478 (1986) (when there is no right to counsel at public expense, a lawyer's incompetence is not the sort of external impediment that could excuse a procedural default). Bauer may or may not have received bad advice (her own affidavits don't agree on that point), but she could and should have notified the IJ and asked him to postpone or cancel the hearing. And she could have alerted Omazic to her current allegations, obtained Omazic's response, and filed a formal complaint. See *Omar v. Mukasey*, 517 F.3d 647, 651 (2d Cir. 2008) (the BIA is entitled to apply the *Lozada* procedure to complaints about the advice furnished by

non-lawyers). The BIA did not abuse its discretion in denying Bauer's motion.

The petitions for review are dismissed for want of jurisdiction on the authority of *Kucana;* but in an exercise of caution, given the grant of certiorari in *Kucana,* we alternatively deny the petitions on the merits.

APPENDIX F

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

January 12, 2010

Before
FRANK H. EASTERBROOK, *Chief Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
DIANE S. SYKES, *Circuit Judge*

CHIRSTA FAREED BAUER
Petitioner
Nos. 08-3243 & 09-1280

ERICK H. HOLDER, JR., Attorney General of the United States
Respondent.

} Petitions for Review of an Order of the Boards of Immigration Appeals.

Order

Petitioner filed a petition for rehearing on January 7, 2010. All of the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

APPENDIX G

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

October 4, 2010

Mr. Allan Harvey Bell
Allan H. Bell and Associates
2022 Swift, Suite 202
North Kansas City, MO 64116

Re: Christa Bauer v. Eric H. Holder, Jr.,
Attorney General
No. 10-197

Dear Mr. Bell:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter, Clerk